

CONFIDENTIAL

OGC 67-0750

20 April 1967

MEMORANDUM FOR: Assistant Deputy Director for Intelligence

SUBJECT: Publication by the Employee Activity
Association of Unclassified Works
of Agency Employees

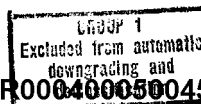
1. You have asked our opinion as to whether the Employee Activity Association could publish works of Agency employees to be distributed to the academic community in view of the DCI's prohibition against the Agency's continuing to publish these unclassified reports for distribution outside Government. As you know, we have discussed the matter further with you and with who is the president of EAA.

25X1

2. EAA is a nonprofit organization incorporated under the laws of the State of Virginia. It qualifies for tax exemption under the Internal Revenue Code as an organization composed wholly of the employees of the Agency and devoted to recreational, educational, and charitable purposes. The organization is broken down into a number of clubs and other groups, each devoted to a particular recreational, educational, and charitable activity. Thus, EAA has a garden club, a bridge club, a camera club, a glee club, etc. In addition, it provides merchandise and services to its membership, particularly in the area of entertainment. Dues are charged and participation is limited to dues-paying members.

3. We would see no legal preclusion to the Association's forming an author's club. Purchasing and disseminating materials outside the membership, however, raises two questions which we believe probably can be met. First, IRS has held in a number of cases that publishing of material for sale to the public for a profit does not constitute a nonprofit purpose. Thus, income generated from such activity could be taxable. Furthermore, if publishing were a large enough share of the nonprofit organization's activity, the

CONFIDENTIAL



CONFIDENTIAL

organization could lose its tax exemption. This should not be a real problem here, first, since no profit will be generated and second, since the activity would be a minor share of the organization's total activities. The other problem raises greater difficulties. For EAA to engage in this activity, all authors, of course, must be Agency employees and dues-paying members of EAA. This should also be true of recipients of the articles. We would, therefore, believe that the only legal approach to be taken to this would be a liberal policy for making copies of the articles available to the authors or available to individuals and organizations the authors might direct in recognition of their efforts. This list, of course, could be identical to that which has been used in the past for distribution to universities and to academic outlets. Moreover, copies must be made available to the membership of EAA.

4. A final problem arising from the use of EAA for this purpose is the problem of the cost of publication. Some means would have to be devised to publish copies of the material without at the same time involving the Agency in identifying with the positions taken in the reports.

[Redacted]
Assistant General Counsel

cc: [Redacted]

25X1

25X1

CONFIDENTIAL